

**REMARKS**

Reconsideration is requested.

Claims 1-23 and 25-47 have been canceled, without prejudice. The applicants understand the Examiner to be of the position that claim 26 is a separately patentable selection invention. Claim 26 has been canceled, without prejudice, to advance prosecution.

Claim 24 has been amended to advance prosecution, for the reasons described below.

The rejection of claim 24 under Section 112, first paragraph, and the rejection of claim 25 under Section 112, first paragraph, stated on pages 4-6 of the Office Action dated October 21, 2003, are traversed. The Section 112, second paragraph, rejection of claims 24 and 48-52 is traversed. Reconsideration and withdrawal of the rejections are requested.

Initially, the applicants note that claim 25 was canceled, without prejudice, in the Amendment filed August 1, 2003. In the event the Examiner intended to reject a claim other than claim 25, a new Action is requested which specifically states any previously unstated rejection. In the interest of advancing prosecution, the applicants presume the Examiner's reference to claim 25 was intended to refer to claim 24. Clarification is requested in the Examiner's next Communication in the event this is not the case.

As for the substance of the Examiner's comments, consideration of the following is requested.

The Examiner is understood to have indicated that the specification is enabling for polypeptides having a sequence comprising SEQ ID NO: 24 and portions of said

polypeptide that induce a specific immune response against a mycobacterium. The Examiner is also understood to have objected that the reference to an "epitope" in claim 24 is allegedly not enabled and/or as allegedly being indefinite.

In view of these understandings, and in order to advance prosecution, claim 24 part (iv) has been amended to delete the reference to epitopes, and to introduce instead the functional requirement that the claimed fragments retain the ability to stimulate an immune response against said mycobacterium. The Section 112, second paragraph, rejection is believed to be obviated by the above amendments.

This is the same functional test previously introduced into part (iii) of claim 24. As explained previously, this simple functional test means that the claimed fragments must be sufficiently similar to SEQ ID NO: 24 that the immune response stimulated by the fragment will act on the same mycobacterium as the immune response stimulated by the polypeptide of SEQ ID NO: 24. For example, when the immune response takes the form of antibody production, at least some of the antibodies generated in response to the fragment of part (iv) are also capable of binding the mycobacterium.

As is clear from the application, and as appears to have been accepted by the Examiner in relation to part (iii), it would be straightforward for one of ordinary skill in the art to determine whether administration of a particular fragment of SEQ ID NO: 24 had actually been successful in raising a suitable immune response. For example, suitable assays are described at page 17 line 27 through to the end of page 18.

The Applicants respectfully submit that, in view of the amendments now made to claim 24, the claims are in condition for allowance and notice to that effect is requested.

The Examiner is requested to contact the undersigned if anything further is required in this regard.

Withdrawal of the Section 112, first and second paragraph, rejections, is requested.

Copies of the Information Disclosure Statement filed July 12, 2001, with the associated papers have been previously submitted. As clearly requested in the Information Disclosure Statement as well as the Remarks of the Amendment dated August 1, 2003, the Examiner is requested to **return of an initialed copy of the Information Disclosure Statement** as an indication and consideration of the same claims which were attached to the Information Disclosure Statement. The undersigned has not previously submitted a PTO 1449 Form, as is apparently being now required by the Examiner, as the applicants do not believe it would be appropriate or even possibly acceptable under the USPTO formalities requirements, to list consideration of pending claims from a co-pending case on a PTO 1449 Form and ultimately on the face of a U.S. Patent. The Examiner is therefore again requested to return an initialed copy of the previously filed Information Disclosure Statement or make some other comment or indication on the record that the claims previously submitted have been considered.

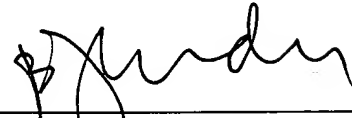
The applicants respectfully submit that the claims, as amended, are in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned if anything further is required in this regard.

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Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



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